

DHMH POLICY

<http://www.dhmh.state.md.us/policies/inpolm.htm>

OFFICE OF EQUAL OPPORTUNITY PROGRAMS - POLICY 02.06.02

Version Effective September 5, 2006

DHMH POLICY ON SEXUAL HARASSMENT

SHORT TITLE: **SEXUAL HARASSMENT**

I. EXECUTIVE SUMMARY

The Department of Health and Mental Hygiene (DHMH) prohibits sexual harassment in the workplace. This policy applies to all facilities and programs operated by the DHMH; grant-in-aid programs; and health services providers/contractors/subcontractors receiving Federal or State funds. No administration or DHMH component shall do business with firms, which engage in or allow sexual harassment. DHMH employees shall cooperate with the Executive Director, Office of Equal Opportunity Programs (OEOP), in the implementation of this policy.

DHMH employees are prohibited from engaging in conduct that would constitute sexual harassment. Examples of potential sexual harassment conduct are cited in this policy. An employee or job applicant may file a sexual harassment complaint with DHMH or with an external agency without fear of reprisal. An employee who files a sexual harassment complaint with the Maryland Commission on Human Relations (MCHR) must do so within 180 days from the date when the alleged harassment occurred, or within 300 days with the U.S. Equal Employment Opportunity Commission (EEOC).

The Director, DHMH Office of Human Resources (OHR), shall have lead responsibility for assuring that new employees are informed about this policy. Supervisors shall communicate this policy to employees annually and to prospective employees during the interview process.

This policy establishes guidelines for supervisors, managers, Equal Opportunity Designees (EOD), or EEO Officers when investigating sexual harassment complaints. Supervisors shall seek guidance from the Executive Director, OEOP, before determining the appropriate disciplinary action against an employee who commits a sexual harassment offense against another DHMH employee or job applicant. This policy shall become part of the agreement/contract between DHMH and prime contractors/subcontractors who receive DHMH, State, or Federal funds for fulfilling service, maintenance, or commodity contracts.

DHMH will not condone discriminatory practices within DHMH and will not conduct business with firms that allow sexual harassment. This policy is established to insure that every employee clearly understands that sexual harassment is illegal and will not be tolerated.

II. BACKGROUND

This version, which supersedes the June 17, 2003 version of this policy, recognizes the name change of the responsible unit from the Office of Community Relations to the Office of Equal Opportunity Programs. Additionally, this version includes numerous minor changes throughout the

Department of Health & Mental Hygiene

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policy statements.

III. **POLICY STATEMENTS**

A. **AUTHORITY**

- harassment Included by reference are the following codes that also prohibit sexual in the workplace:
1. Title VII of the Civil Rights Act of 1964, as amended;
<http://www.eeoc.gov/laws/vii.html>
 2. Equal Employment Opportunity Commission Policy Guidance on Sexual Harassment, Number N-915-0505 (3/19/90);
<http://www.eeoc.gov/docs/currentissues.html>.
 3. Article 49B, Annotated Code of Maryland, http://mlis.state.md.us/cgi-win/web_statutes.exe?q49B&1.
 4. Annotated Code of Maryland, Title V, State Personnel and Pensions Article, §1-101. http://mlis.state.md.us/cgi-win/web_statutes.exe?gsp&1-101.
 5. Executive Order 01.01.1995.19—Code of Fair Employment Practices, <https://constmail.gov.state.md.us/comar/01/01.01.1995.19.htm>.
 6. Sexual Harassment Policy and Procedure, Department of Budget & Management, 10/31/02, =
(POLICY)http://www.dbm.maryland.gov/dbm_publishing/public_content/dbm_taxonomy/employee_services/equal_employment_opportunity/sexual_harassment_policy/sexual_harassment_in_the_workplace_policy.html
(PROCEDURES)http://www.dbm.maryland.gov/dbm_publishing/public_content/dbm_taxonomy/employee_services/equal_employment_opportunity/procedure_for_reporting_complaints_of_sexual_harassment.html

B. **GENERAL PROVISIONS**

Sexual harassment is an infringement upon an employee's right to work in an environment free from unwanted sexual attention and sexual pressure. Sexual harassment frequently involves a male supervisor and a female subordinate, but may be initiated by a supervisor or employee of the same or opposite sex against a supervisor or employee of the same or opposite sex. In addition to being a personal violation, sexual harassment, especially between the supervisor and the employee, threatens a person's livelihood and creates a hostile work environment. Sexual harassment is a form of sex discrimination and it is illegal.

1. Sexual harassment is prohibited in the DHMH workplace by Federal and State laws, State regulations and policies, Executive Order, and this Departmental policy.
2. The Department of Budget and Management (DBM) Office of Personnel Services and Benefits (OPSB) publication entitled State of Maryland Sexual Harassment Policy and Procedure, offers guidance on sexual harassment, and promotes a work environment that is free from sexual harassment.
3. An employee or DHMH job applicant who believes that he or she has been sexually harassed may file a complaint at any of the offices or agencies listed in Section III D of this policy.
4. Employees shall refrain from conduct such as asking other employees for sexual favors; making sexual advances toward employees; making lewd remarks or telling obscene jokes; and displaying or sharing with another

employee sexually explicit pictures, drawings, objects, emails, etc.

5. Employees shall be required to sign a DHMH 4527, Employee Acknowledgement Form, and acknowledge receipt of this policy. The form is to be kept in the employee's Personnel file.
(<http://www.dhmh.state.md.us/forms/download/personnl/sexhar.pdf>).
6. This policy shall apply to all DHMH facilities and programs operated by the Department; grant-in-aid programs; and health services providers, contractors/ sub-contractors receiving DHMH, State or Federal funds.
7. DHMH prohibits the transaction of business with any individuals or entities that engage in or permit sexual harassment
8. OEOP's procedures for handling sexual harassment complaints shall be consistent with the State of Maryland's Sexual Harassment Policy and Procedures.
9. Each deputy secretary, program director, facility director, unit head, and supervisor shall:
 - a. fully cooperate with the Executive Director, OEOP, in implementing this policy;
 - b. appoint one or more Equal Opportunity Designees (EOD) for each unit; and,
 - c. forward the EOD list to the Executive Director, OEOP upon request.
10. An employee's supervisor must act promptly upon receipt of a sexual harassment complaint and either (a) thoroughly investigate all allegations in coordination with OEOP, or (b) cooperate, as appropriate, with OEOP's investigation. If sexual harassment is proven, the offending employee's supervisor must receive guidance from the Executive Director, OEOP, before taking disciplinary action against the offending employee.

Depending upon the seriousness of the sexual harassment act, disciplinary action may include, but is not limited to suspension or termination of the offending employee. The victim does not have to be the person who is harassed, but could be anyone who is affected by the offending employee's conduct.

C. EXAMPLES OF POTENTIAL SEXUAL HARASSMENT CONDUCT

1. Employees are prohibited from engaging in questionable conduct or conversation that could be construed as sexual or sexual harassment including, but not limited to:
 - a. Unwelcome sexual advances; requests for sexual favors; and conversations about sex or physical conduct of a sexual nature;
 - b. Discrimination based upon sex that results in economic or privilege

- loss to the employee(s);
- c. Unwelcome sexually explicit remarks or unwelcome sexual advances against a fellow employee or applicant for employment at any time while on DHMH's premises, or off the premises when an employee may be on a work assignment or function.
2. Prohibited remarks or sexual advances may include, but are not limited to:
- a. Lewd expressions, catcalls, whistles, obscene gestures, or references to an employee's anatomy;
 - b. Unwanted physical advances, touching, brushing, pinching, or contact by one employee to another;
 - c. Requests or demands for kisses, petting, or sexual intercourse from one employee to another;
 - d. Repeated propositions for dates by one employee to another;
 - e. Requiring an employee to listen to sexually suggestive jokes or remarks whether the employee wishes to or not;
 - f. Threats of rape or attempted rape;
 - g. Displaying or sharing sexually explicit or offensive materials, pictures, drawings, objects, e-mails, etc.

D. GUIDELINES FOR AN EMPLOYEE WHO FEELS THAT HE OR SHE HAS BEEN SEXUALLY HARASSED

An employee who feels that he or she has been sexually harassed should take the following steps:

1. Inform the offending person that the behavior is unwelcome. If the individual is afraid to state the objection, he/she should immediately notify the superiors of the offender.
2. Document when, where, how, and who committed the alleged sexual harassment act(s) and any witnesses present when these events occurred.
3. Keep a record of:
 - a) whom the sexual harassment allegations were reported to; and,
 - b) when, where, and how sexual harassment complaints were reported to:
 - supervisory/management personnel,
 - the DHMH Office of Human Resources (OHR),
 - the office of the Statewide EEO Coordinator,
 - the Equal Opportunity Designee (EOD). or,
 - the DHMH Office of Equal Opportunity Programs (OEOP) .

E. REPORTING OF THE OFFENDING CONDUCT/ FILING A COMPLAINT

1. If an employee or job applicant feels that he or she has been sexually harassed, he or she has the right to file a sexual harassment complaint with any of the following agencies or individuals:
 - a. The employee's supervisor; the supervisor of the alleged offender; the Director, OHR, or the employee's Equal Opportunity Designee;
 - b. Executive Director, DHMH Office of Equal Opportunity Programs (OEOP), 201 West Preston Street, Baltimore, Maryland 21201;
 - c. The Office of the Statewide EEO Coordinator, Department of Budget and Management, 301 West Preston St., Baltimore,

- d. Maryland 21201;
The Maryland Commission on Human Relations, 6 Saint Paul Street, 9th Floor, Baltimore, Maryland 21202
 - e. The US Equal Employment Opportunity Commission, 10 S. Howard Street, Baltimore, Maryland 21201.
- 2. An employee or applicant for employment may seek assistance from a DHMH facility or administration director, EEO Designee, or the Executive Director, OEOP, prior to filing a complaint.
- 3. An employee who files a sexual harassment complaint with the MCHR must file within 180 days from the date of the alleged occurrence of the sexual harassment act, or with EEOC within 300 days.

IV. REFERENCES

- o Civil Rights Act of 1964, Title VII, as amended, <http://www.eeoc.gov/laws/vii.html>.
- o Executive Order 1995.19, (COMAR 01.01.1995.19) – **Code of Fair Employment Practices**,
<https://constmail.gov.state.md.us/comar/01/01.01.1995.19.htm>.
- o Article 49B, Annotated Code of Maryland,
http://mlis.state.md.us/cgi-win/web_statutes.exe?q49B&1.
- o Annotated Code of Maryland, State Personnel and Pensions Article, §1-101
http://mlis.state.md.us/cgi-win/web_statutes.exe?gsp&1-101.
- o U.S. Equal Employment Opportunity Commission, **Policy Guidance on Sexual Harassment**, Number N-915-0505, (3/19/90),
<http://www.eeoc.gov/docs/currentissues.html>.
- o **EEOC Facts on Sexual Harassment**, <http://www.eeoc.gov/facts/fs-sex.html>
- o **State of Maryland Sexual Harassment Policy and Procedure**, Department of Budget and Management, revision October 31, 2001.
(Policy)<http://www.dbm.maryland.gov/DBM%20Taxonomy/Employee%20Services/Equal%20Employment%20Opportunity/Sexual%20Harassment%20Policy/MarylandSexualHarassmentPolicy.htm>
(Procedure)<http://www.dbm.maryland.gov/DBM%20Taxonomy/Employee%20Services/Equal%20Employment%20Opportunity/Sexual%20Harassment%20Policy/ReportingProcedure.htm>.
- o **DHMH Form 4527**, Sexual Harassment Policy Employee Acknowledgement Form, <http://www.dhmh.state.md.us/forms/download/personnl/sexhar.pdf>.

APPROVED:

/S/ Signature on file

S. Anthony McCann, Secretary

September 5, 2006
Effective Date